



WP(MD)No.4406 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.07.2022**

CORAM:

THE HONOURABLE **MR.JUSTICE M.S.RAMESH**

W.P.(MD)No.4406 of 2018
and W.M.P.(MD)No.4507 of 2018

C.Mariappan

... Petitioner

/vs./

- 1.The Deputy Secretary to Government, (i/c)
Home (pri.II) Department,
Secretariat, Chennai – 9.
- 2.The Director General of Prisons,
Chennai – 5.
- 3.The Additional Director General of Prisons,
No.1, Gandhi Irwin Road,
Egmore, Chennai – 8.
- 4.The Tamil Nadu Uniformed Services
Recruitment Board,
Chengalvarayan Building,
Mount Road, Chennai – 2.
- 5.The Superintendent of Prison,
Palayamkottai,
Central Jail,
Tirunelveli District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the 1st respondent in his proceedings dated 10.05.2017 vide letter No.7171/Pri.II/2017-5 and quash the same and consequently direct the 1st respondent to restore the petitioner's name in the original seniority on par with his counterpart who has been appointed during the year 2006 and direct to pay salary.

For Petitioner : Mr.R.Maheswaran for
Mr.M.Subash Babu

For Respondents : Mrs.D.Farjana Ghoushia,
Special Government Pleader.

ORDER

The petitioner herein had applied for the post of Grade-II Warders, pursuant to a notification issued in the year 2003-2004. When the petitioner's candidature for selection was not considered, he had filed a writ petition in W.P.(MD)No.9493 of 2006 and by an order dated 08.04.2011, this Court had directed the respondents to issue an order of appointment to the petitioner as Grade-II Warder. Challenging the order of the learned Single Judge, the Department had filed an appeal in W.A.(MD)No.766 of 2021, whereby, a Division Bench of this Court



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had dismissed the Writ Appeal, through its order dated 06.01.2012. However, while dismissing the Writ Appeal, an observation was made in the following manner:

“14. In these circumstances, we do not find any justification either on fact or on law to agree with the appellants' claim that the order passed by the learned single Judge is contrary to the Rules. Hence, dismissing this writ appeal, we confirm the order of the learned Single Judge. Since the recruitment process is already over in respect of the advertisement made, the candidature of the respondent herein shall be considered for appointment in the current year in the vacancies that are available. Consequently, M.P.(MD)No. 2 of 2011 is dismissed and M.P.(MD)No.3 of 2011 is closed. No costs.”

2. A perusal of the above observation made reveals that though the Hon'ble Division Bench had confirmed the order of the learned Single Judge, it had taken note of the fact that the recruitment process was already completed and therefore, directed the respondents herein to consider the petitioner's appointment for the vacancies in that current year. In this background, the petitioner came to be appointed as Grade-II Warder on 24.12.2012.



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3. The petitioner now claims revision of his seniority on par with his immediate juniors, who were recruited pursuant to the notification for the year 2003-2004. The claim made by the petitioner is against the direction made by the Hon'ble Division Bench, as extracted above. When the Division Bench had found that the recruitment process had already completed and thereby expressed the difficulty that may be faced by the respondents herein in appointing him to the post of Grade-II Warder and accordingly directed them to appoint him in the current vacancies, I do not find any reason to appreciate the claim made by the petitioner, whereby he seeks seniority on par with his candidates, who were appointed during the year 2003-2004. The petitioner's appointment made on 24.12.2012 was pursuant to the direction of the Hon'ble Division Bench. If at all, the petitioner feels that he is entitled for seniority on par with the candidates who were appointed under the notification for the year 2003-2004, the appropriate remedy would have been to challenge the order of the Hon'ble Division Bench, insofar as it directed the respondents herein to appoint the petitioner in the current vacancies. Admittedly, such a recourse was not adopted by the petitioner herein. While that being so, the present claim for fixation of his seniority on par with the



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candidates who were originally appointed under the notification, cannot be sustained.

4. In this background, I do not find any infirmity in the impugned order passed by the respondents herein. Accordingly, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

18.07.2022

Index : Yes / No

Internet : Yes / No

vsm

To

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M.S.RAMESH, J.

vsm

Order made in
W.P.(MD) No.4406 of 2018

Dated:
18.07.2022